


RE: Bytemark, Inc. v. Xerox Corp., Civil Action No. 1:17-cv-01803-PGG

From: Eliza Beeney <ebeeney@McKoolSmith.com>

Sent: Mon, Aug 29, 2022 at 10:50 pm

To: dkeyhani@keyhanillc.com

Cc: sdraffin@keyhanillc.com, Frances Stephenson, Ashley N. Moore, Jonathan Powers, Kaylee Hoffner

   
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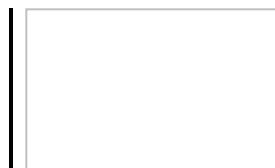
Darius,

We disagree with the false assertions made in your email below. As I stated on Friday and during our meet and confer last week, we are in the process of investigating Bytemark's discovery requests and a rolling production is forthcoming. We will move to strike Bytemark's discovery letter if it is filed with the Court today, including because such a letter would violate the Federal Rules and the Court's individual rules. Our offer to meet and confer also stands; we can be available later this week if you would like to discuss your discovery requests in an effort to make progress and narrow the issues in dispute. If you insist on filing the premature letter today, we again request that you attach this email chain.

Regards,
Eliza



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From: dkeyhani@keyhanillc.com <dkeyhani@keyhanillc.com>

Sent: Friday, August 26, 2022 4:00 PM

To: Eliza Beeney <ebeeney@McKoolSmith.com>

Cc: sdraffin@keyhanillc.com; Frances Stephenson <fstephenson@keyhanillc.com>; Ashley N. Moore <amoore@McKoolSmith.com>; Jonathan Powers <jpowers@McKoolSmith.com>; Kaylee Hoffner <khoffner@McKoolSmith.com>

Subject: Re: Bytemark, Inc. v. Xerox Corp., Civil Action No. 1:17-cv-01803-PGG

Counsel- We are operating under a very short time line set by the Court to complete discovery on the discrete 11th Amendment issue raised by defendant New Jersey Transit. We have already met and conferred and, contrary to your claim, we have provided in detail the supporting law that demonstrates the relevance of Bytemark's discovery requests at issue.

Your allegations are false and Bytemark is not in violation of any Rules. Contrary, your client is failing to comply with the Court's order requiring the parties to complete discovery on this discrete issue within 60 days and your obligations under the Federal Rules of Civil Procedure.

Again, we ask that you advise whether your client will be producing all the responsive documents to Bytemark's discovery requests by the end of this month (we requested in our meet and confer on Tuesday that you provide your client's position by today and you have not). We will give you until Monday to confirm whether or not your client will comply with the Court's order and the discovery obligations under the Rules and produce all responsive documents by the end of this month or input your client's position in the joint letter.

Darius

On Aug 26, 2022, at 4:23 PM, Eliza Beeney <eebeeney@mckoolsmith.com> wrote:

Scott: if, notwithstanding the below, Bytemark files a discovery letter with the Court today, we insist that you attach this email chain to your letter.

Regards,
Eliza

McKool Smith | Eliza Beeney
Associate | New York, NY | Tel: (212) 402-9818

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From: Eliza Beeney <eebeeney@McKoolSmith.com>
Sent: Friday, August 26, 2022 4:11 PM
To: sdraffin@keyhanillc.com
Cc: Darius Keyhani <dkeyhani@keyhanillc.com>; Frances Stephenson <fstephenson@keyhanillc.com>; Ashley N. Moore <amoore@McKoolSmith.com>; Jonathan Powers <jpowers@McKoolSmith.com>; Kaylee Hoffner <khoffner@McKoolSmith.com>
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Scott and Darius,

We served our responses and objections to your discovery requests less than four days ago. At your request, we met and conferred less than 24 hours later. Although during the meet and confer you failed to provide any specific reason why the requested discovery is relevant and proportional (and instead largely insisted that the discovery is "relevant because it's relevant"), we agreed to investigate with our client what, if any, relevant and responsive documents exist. We are in the process of that investigation.

Your insistence less than three days after our responses were served that we incorporate our joint portion of a letter within 24 hours is unreasonable and unfair, and a violation of FRCP 37(a)(1) and the Court's individual rules. We will move to strike the letter if it is filed today, including because we cannot and will not make a false representation to the Court that "the parties are at an impasse" on each and every one of Bytemark's discovery requests when you have made absolutely no good faith effort to actually confer on these requests with us.

To be clear, we are in the process of investigating your requests with our client, and intend to make a production. We are also happy to meet and confer in good faith and hope to narrow our disputes so that Court intervention is unnecessary or can at least be requested on a limited number of issues.

Eliza



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From: sdraffin@keyhanillc.com <sdraffin@keyhanillc.com>

Sent: Thursday, August 25, 2022 4:24 PM

To: Eliza Beeney <eebeeney@McKoolSmith.com>

Cc: Darius Keyhani <dkeyhani@keyhanillc.com>; Frances Stephenson <fstephenson@keyhanillc.com>;

Ashley N. Moore <amoore@McKoolSmith.com>; Jonathan Powers <jpowers@McKoolSmith.com>;

Kaylee Hoffner <khoffner@McKoolSmith.com>

Subject: Bytemark, Inc. v. Xerox Corp., Civil Action No. 1:17-cv-01803-PGG

Hi Eliza,

Following up on our meet and confer on Tuesday, please find attached Bytemark's draft letter discussing the relevant cases that establish that Bytemark's discovery requests are relevant and not overly broad. Please note that this is a draft, and Bytemark reserves the right to edit its position further.

Please advise by tomorrow if your client is agreeable to produce all responsive documents to the requests that were discussed during the meet and confer and identified in the draft letter by the end of the month. If your client is not agreeable, please insert your clients position in the letter. Bytemark intends to file this letter by the close of business day tomorrow.

Kind regards,

Scott Draffin
Keyhani LLC